

**U.S. District Court
Northern District of Texas (Dallas)
CIVIL DOCKET FOR CASE #: 3:18-cv-01349-M-BK**

Berk v. Executive Office of United States Attorneys
Assigned to: Chief Judge Barbara M.G. Lynn
Referred to: Magistrate Judge Renee Harris Toliver
Cause: 05:552 Freedom of Information Act

Date Filed: 05/28/2018
Jury Demand: None
Nature of Suit: 540 Prisoner Pet/Other:
Mandamus & Other
Jurisdiction: U.S. Government Defendant

Plaintiff

Michael Berk

represented by **Chad Phillip Van Cleave**
Van Cleave Law Firm
PO Box 1703
Georgetown, TX 78627
512-497-0604
Fax: 512-852-4755
Email: chad@drugandgunlawyer.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Bar Status: Admitted/In Good Standing

V.

Defendant

**Executive Office of United States
Attorneys**

represented by **Lisa Robin Hasday–DOJ**
US Attorney's Office
1100 Commerce St
3rd Floor
Dallas, TX 75242
214-659-8737
Fax: 214-659-8807
Email: lisa.hasday@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Bar Status: Not Admitted

V.

Consol Defendant

**United States Department of Homeland
Security**

represented by **Lisa Robin Hasday–DOJ**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Bar Status: Not Admitted

Consol Defendant

**US Department of Justice, Federal
Bureau of Prisons**

represented by **Lisa Robin Hasday–DOJ**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Bar Status: Not Admitted

Date Filed	#	Docket Text
05/28/2018	1	COMPLAINT against Executive Office of United States Attorneys filed by Michael Berk. Clerk to issue summons(es). In each Notice of Electronic Filing, the judge assignment is indicated, and a link to the <u>Judges Copy Requirements</u> is provided. The

		court reminds the filer that any required copy of this and future documents must be delivered to the judge, in the manner prescribed, within three business days of filing. Unless exempted, attorneys who are not admitted to practice in the Northern District of Texas must seek admission promptly. Forms, instructions, and exemption information may be found at www.txnd.uscourts.gov , or by clicking here: Attorney Information – Bar Membership . If admission requirements are not satisfied within 21 days, the clerk will notify the presiding judge. (Van Cleave, Chad) (Entered: 05/28/2018)
05/28/2018	<u>4</u>	New Case Notes: A filing fee has not been paid. CASREF case referral set and case referred to Magistrate Judge Toliver (see Special Order 3). Case received over counter/electronically. No prior sanctions found. (For court use only – links to the <u>national</u> and <u>circuit</u> indexes.) Pursuant to Misc. Order 6, Plaintiff is provided the Notice of Right to Consent to Proceed Before A U.S. Magistrate Judge (Judge Toliver). Clerk to provide copy to plaintiff if not received electronically. (svc) (Entered: 05/29/2018)
05/29/2018	<u>2</u>	CERTIFICATE OF INTERESTED PERSONS/DISCLOSURE STATEMENT by Michael Berk. (Van Cleave, Chad) (Entered: 05/29/2018)
05/29/2018	<u>3</u>	ADDITIONAL ATTACHMENTS to <u>1</u> Complaint,,, by Plaintiff Michael Berk. (Van Cleave, Chad) (Entered: 05/29/2018)
06/06/2018	<u>5</u>	NOTICE OF DEFICIENCY AND ORDER: Michael Berk must address the following deficiency: Plaintiff has not paid the \$400.00 filing fee (\$350.00 filing fee and \$50.00 administrative fee) or submitted a proper request to proceed in forma pauperis, along with a certified statement of the balance in his inmate trust account. Failure to comply with this order may lead to dismissal for failure to prosecute pursuant to FRCvP 41(b). Deadline to cure the deficiency is 7/5/2018. (Ordered by Magistrate Judge Renee Harris Toliver on 6/6/2018) (Attachments: # <u>1</u> Additional Page(s)) (ran) (Entered: 06/06/2018)
06/26/2018	<u>6</u>	MOTION for Leave to Proceed in forma pauperis with certificate of trust account filed by Michael Berk (Van Cleave, Chad) (Entered: 06/26/2018)
07/12/2018	<u>7</u>	Order granting Motion to Proceed <i>In Forma Pauperis</i> and assessing a partial filing fee in the amount of \$54.00 with a balance of \$296.00 remaining. Clerk to mail this order to the attention of the Inmate Trust Fund Department at the facility where the inmate resides. (Ordered by Magistrate Judge Renee Harris Toliver on 7/12/2018) (chmb) (Entered: 07/12/2018)
07/13/2018	<u>8</u>	ORDER ISSUING PROCESS: The Clerk of the Court is now directed to issue summons for the defendant named below and deliver the summons and a copy of the complaint to the U.S. Marshal. (Ordered by Magistrate Judge Renee Harris Toliver on 7/13/2018) (ndt) (Entered: 07/13/2018)
07/13/2018	<u>9</u>	Summons issued as to Executive Office of United States Attorneys, U.S. Attorney, and U.S. Attorney General. (Attachments: # <u>1</u> Additional Page(s)) (ndt) (Entered: 07/13/2018)
07/16/2018	<u>10</u>	Business Reply Card signed by USMS; re <u>8</u> Order. Signed on 7/16/2018. (ndt) (Entered: 07/17/2018)
08/07/2018	<u>11</u>	NOTICE of Attorney Appearance by Lisa Robin Hasday–DOJ on behalf of Executive Office of United States Attorneys. (Filer confirms contact info in ECF is current.) (Hasday–DOJ, Lisa) (Entered: 08/07/2018)
08/07/2018	<u>12</u>	ORDER: The above-captioned cases are CONSOLIDATED. All future pleadings, motions, and other papers in these cases shall be filed under case number 3:18-cv-1349-M-BK. (Ordered by Chief Judge Barbara M.G. Lynn on 8/7/2018) (sss) (Entered: 08/08/2018)
08/14/2018	<u>13</u>	SUMMONS Returned Executed as to US Department of Justice, Federal Bureau of Prisons; served on 7/13/2018. (zkc) (Entered: 08/14/2018)
08/14/2018	<u>14</u>	SUMMONS Returned Executed as to Executive Office of United States Attorneys–US Attorney ND; served on 7/27/2018. (ykp) (Entered: 08/15/2018)

08/14/2018	<u>15</u>	SUMMONS Returned Executed as to Executive Office of United States Attorneys –FOIA Privacy Unit; served on 7/30/2018. (ykp) (Entered: 08/15/2018)
08/14/2018	<u>16</u>	SUMMONS Returned Executed as to Executive Office of United States Attorneys– Attorney General served on 7/30/2018. (ykp) (Entered: 08/15/2018)
08/14/2018	<u>17</u>	ANSWER to Complaint filed by US Department of Justice, Federal Bureau of Prisons. Unless exempted, attorneys who are not admitted to practice in the Northern District of Texas must seek admission promptly. Forms and Instructions found at www.txnd.uscourts.gov , or by clicking here: Attorney Information – Bar Membership . If admission requirements are not satisfied within 21 days, the clerk will notify the presiding judge. Attorney Lisa Robin Hasday–DOJ added to party US Department of Justice, Federal Bureau of Prisons(pty:condft). (rek) (Entered: 08/15/2018)
08/15/2018	<u>18</u>	CERTIFICATE OF INTERESTED PERSONS/DISCLOSURE STATEMENT by US Department of Justice, Federal Bureau of Prisons. (rek) (Entered: 08/15/2018)
08/23/2018	<u>19</u>	ORDER ISSUING PROCESS: The Clerk of the Court is now directed to issue summons for the defendant named below and deliver the summons and a copy of the complaint in Case No. 3:18-CV-1350-M-BK to the U.S. Marshal: Office of the General Counsel U.S. Department of Homeland Security. (Ordered by Magistrate Judge Renee Harris Toliver on 8/23/2018) (zkc) (Entered: 08/23/2018)
08/23/2018	<u>20</u>	Summons issued as to Department of Homeland Security, U.S. Attorney, and U.S. Attorney General. (zkc) (Entered: 08/23/2018)
08/23/2018	<u>21</u>	Business Reply Card signed by USMS; re <u>19</u> Order, <u>20</u> Summons Issued, Complaint (3:18-cv-1350), <u>4</u> Consent Form. Signed on 8/23/2018. (zkc) (Main Document 21 replaced on 8/24/2018) (zkc). (Entered: 08/23/2018)
08/27/2018	<u>22</u>	ANSWER to <u>1</u> Complaint filed by Executive Office of United States Attorneys. Unless exempted, attorneys who are not admitted to practice in the Northern District of Texas must seek admission promptly. Forms and Instructions found at www.txnd.uscourts.gov , or by clicking here: Attorney Information – Bar Membership . If admission requirements are not satisfied within 21 days, the clerk will notify the presiding judge. (Hasday–DOJ, Lisa) (Entered: 08/27/2018)
08/27/2018	<u>23</u>	CERTIFICATE OF INTERESTED PERSONS/DISCLOSURE STATEMENT by Executive Office of United States Attorneys. (Hasday–DOJ, Lisa) (Entered: 08/27/2018)
09/10/2018	<u>24</u>	NOTICE of Attorney Appearance by Lisa Robin Hasday–DOJ on behalf of United States Department of Homeland Security. (Filer confirms contact info in ECF is current.) (Hasday–DOJ, Lisa) (Entered: 09/10/2018)
10/01/2018	<u>25</u>	SUMMONS Returned Executed as to United States Department of Homeland Security, served on 9/6/2018; US Attorney, served on 9/5/2018; Attorney General, served on 9/7/2018. (rek) (Entered: 10/02/2018)
10/04/2018	<u>26</u>	Unopposed Motion for Extension of Time to File Answer <i>or Otherwise Plead</i> filed by United States Department of Homeland Security (Hasday–DOJ, Lisa) (Entered: 10/04/2018)
10/05/2018	<u>27</u>	ELECTRONIC ORDER GRANTING Doc. <u>26</u> Motion for Extension of Time to File Answer. United States Department of Homeland Security's answer or other responsive pleading is due by 11/5/2018. (Ordered by Magistrate Judge Renee Harris Toliver on 10/5/2018) (chmb) (Entered: 10/05/2018)
11/01/2018	<u>28</u>	Unopposed Motion for Extension of Time to File Answer <i>or Otherwise Plead</i> filed by United States Department of Homeland Security (Hasday–DOJ, Lisa) (Entered: 11/01/2018)
11/02/2018	<u>29</u>	ELECTRONIC ORDER GRANTING Doc. <u>28</u> <i>Defendant DHS Second Unopposed Motion for Extension of Time to Answer or Otherwise Plead.</i> United States Department of Homeland Security's answer or other responsive pleading is due by December 5, 2018. (Ordered by Magistrate Judge Renee Harris Toliver on 11/2/2018) (chmb) (Entered: 11/02/2018)

12/04/2018	<u>30</u>	ANSWER to Complaint filed by United States Department of Homeland Security. Unless exempted, attorneys who are not admitted to practice in the Northern District of Texas must seek admission promptly. Forms and Instructions found at www.txnd.uscourts.gov , or by clicking here: Attorney Information – Bar Membership . If admission requirements are not satisfied within 21 days, the clerk will notify the presiding judge. (Hasday–DOJ, Lisa) (Entered: 12/04/2018)
12/04/2018	<u>31</u>	CERTIFICATE OF INTERESTED PERSONS/DISCLOSURE STATEMENT by United States Department of Homeland Security. (Hasday–DOJ, Lisa) (Main Document 31 replaced to flatten image on 12/6/2018) (dsr). (Entered: 12/04/2018)
12/13/2018	<u>32</u>	Order for Scheduling Order Proposal: Proposed Scheduling Order due by 1/10/2019. (Ordered by Magistrate Judge Renee Harris Toliver on 12/13/2018) (axm) (Entered: 12/14/2018)
12/13/2018	<u>33</u>	Notice of Option to Consent to Proceed Before the Magistrate Judge. If appropriate, party(ies) should return the signed consent form to the clerk. (Ordered by Magistrate Judge Renee Harris Toliver on 12/13/2018) (axm) (Entered: 12/14/2018)
12/17/2018	<u>34</u>	MOTION Waiver of Filing Fee filed by Michael Berk (Attachments: # <u>1</u> Proposed Order Proposed Order) (Van Cleave, Chad) (Entered: 12/17/2018)
12/17/2018	<u>35</u>	Agreed MOTION for Extension of Time to File Proposed Schedules filed by Michael Berk (Attachments: # <u>1</u> Proposed Order Proposed Order) (Van Cleave, Chad) (Entered: 12/17/2018)
12/17/2018	<u>36</u>	MOTION for Waiver of In-Person Meeting Requirement filed by Michael Berk (Attachments: # <u>1</u> Proposed Order Proposed Order) (Van Cleave, Chad) Modified text on 12/18/2018 (rekc). (Entered: 12/17/2018)
12/19/2018	<u>37</u>	ORDER denying <u>34</u> Motion Waiver of Filing Fees. (Ordered by Magistrate Judge Renee Harris Toliver on 12/19/2018) (mcrd) (Entered: 12/19/2018)
12/19/2018	<u>38</u>	ELECTRONIC ORDER GRANTING Doc. <u>35</u> Parties' Agreed Motion for Extension of Time to File Scheduling Proposal. The proposed scheduling order is now due by <u>2/8/2019</u> . (Ordered by Magistrate Judge Renee Harris Toliver on 12/19/2018) (chmb) Modified on 1/7/2019 (chmb). (Entered: 12/19/2018)
12/19/2018	<u>39</u>	ELECTRONIC ORDER GRANTING Doc. <u>36</u> Parties' Agreed Motion for Waiver of In-Person Meeting Requirement. (Ordered by Magistrate Judge Renee Harris Toliver on 12/19/2018) (chmb) (Entered: 12/19/2018)
12/28/2018	<u>40</u>	Order Granting Government's Omnibus Motion for Stay of Cases in Light of Lapse of Appropriations (Ordered by Chief Judge Barbara M.G. Lynn on 12/28/2018) (Attachments: # <u>1</u> Government's Omnibus Motion for Stay) (irl) (Entered: 12/28/2018)
01/28/2019	<u>41</u>	ORDER GRANTING GOVERNMENT'S OMNIBUS MOTION FOR LIFT OF STAY: Unless otherwise directed by the United States District Judge presiding in a particular case, all deadlines that had not expired on or before December 21, 2018 in a case covered by the stay order are extended for 34 days (i.e., the duration of the lapse in appropriations for the Department of Justice). (Ordered by Chief Judge Barbara M.G. Lynn on 1/26/2019) (Attachments: # <u>1</u> Additional Page(s) Omnibus Motion to Lift Stay) (ctf) (Entered: 01/28/2019)
03/08/2019	<u>42</u>	Proposal for contents of scheduling and discovery order by Executive Office of United States Attorneys, US Department of Justice, Federal Bureau of Prisons, United States Department of Homeland Security. (Hasday–DOJ, Lisa) (Entered: 03/08/2019)
03/12/2019	<u>43</u>	SCHEDULING ORDER: Joinder of Parties due by 6/14/2019. Amended Pleadings due by 6/14/2019. Discovery due by 8/1/2019. Deadline for mediation is on or before 8/15/2019. Status Report due by 8/22/2019. Motions due by 8/29/2019. (Ordered by Magistrate Judge Renee Harris Toliver on 3/12/2019) (mla) (Entered: 03/12/2019)
06/11/2019	<u>44</u>	MOTION for Protective Order to Stay Discovery filed by Executive Office of United States Attorneys, US Department of Justice, Federal Bureau of Prisons, United States Department of Homeland Security with Brief/Memorandum in Support. (Hasday–DOJ, Lisa) (Entered: 06/11/2019)

06/11/2019	<u>45</u>	Appendix in Support filed by Executive Office of United States Attorneys, US Department of Justice, Federal Bureau of Prisons, United States Department of Homeland Security re <u>44</u> MOTION for Protective Order to Stay Discovery (Hasday–DOJ, Lisa) (Entered: 06/11/2019)
07/29/2019	<u>46</u>	ELECTRONIC ORDER: On June 11, 2019, Defendants filed a <i>Motion for a Protective Order to Stay Discovery</i> , Doc. <u>44</u> . Defendants request a stay of discovery until after they have moved for, and received a ruling on, their impending motions for summary judgment. Plaintiff did not file any opposition in response. Accordingly, Defendants' <i>Motion for a Protective Order</i> is GRANTED. Discovery is stayed pending the Court's resolution of the anticipated dispositive motions. Ordered by Magistrate Judge Renee Harris Toliver on 7/29/2019) (chmb) (Entered: 07/29/2019)
08/09/2019	<u>47</u>	Joint MOTION to Continue <i>Remaining Deadlines</i> filed by Executive Office of United States Attorneys, US Department of Justice, Federal Bureau of Prisons, United States Department of Homeland Security (Hasday–DOJ, Lisa) (Entered: 08/09/2019)
08/12/2019	<u>48</u>	ELECTRONIC ORDER GRANTING Doc. <u>47</u> <i>Joint Motion to Continue Remaining Deadlines</i> . The deadline for mediation is on or before <u>October 15, 2019</u> . If the parties do not reach a resolution on their own, they may request that the Court refer them to a magistrate judge for a settlement conference before the mediation deadline. The parties' Joint Estimate of Trial Length and Joint Status Report Concerning the Progress of Settlement Negotiations is due on or before <u>October 21, 2019</u> . Dispositive Motions and Motions not otherwise covered are due on or before <u>October 28, 2019</u> . (Ordered by Magistrate Judge Renee Harris Toliver on 8/12/2019) (chmb) (Entered: 08/12/2019)
09/26/2019	<u>49</u>	NOTICE of <i>Joint Request for Settlement Conference Before a Magistrate Judge</i> filed by Executive Office of United States Attorneys, US Department of Justice, Federal Bureau of Prisons, United States Department of Homeland Security (Hasday–DOJ, Lisa) (Entered: 09/26/2019)